

Executive Summary – Enforcement Matter – Case No. 46556
Rickey Repka and Barbara Repka dba Repka's Grocery
RN101211670
Docket No. 2013-0637-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Repka's Grocery, 8481 Buller Road, Waller County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 16, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,483

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,483

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 46556
Rickey Repka and Barbara Repka dba Repka's Grocery
RN101211670
Docket No. 2013-0637-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 11, 2013

Date(s) of NOE(s): March 20, 2013

Violation Information

1. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to collect repeat distribution coliform samples [30 TEX. ADMIN. CODE §290.109(c)(3)(A)(ii) and §290.122(c)(2)(A)].
2. Failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample and failed to provide public notification regarding the failure to collect raw groundwater source *Escherichia coli* samples [30 TEX. ADMIN. CODE §290.109(c)(4)(B) and §290.122(c)(2)(A)].
3. Failed to collect five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notification regarding the failure to collect five routine distribution coliform samples [30 TEX. ADMIN. CODE §290.109(c)(2)(F) and §290.122(c)(2)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondents to:

a. Within 30 days:

- i. Begin complying with applicable coliform monitoring requirements by collecting repeat and increase coliform distribution samples, collecting raw groundwater source *Escherichia coli* samples for each groundwater source in use at the time the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and

Executive Summary – Enforcement Matter – Case No. 46556
Rickey Repka and Barbara Repka dba Repka's Grocery
RN101211670
Docket No. 2013-0637-PWS-E

- ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility.
- b. Within 45 days, submit written certification as described in Ordering Provision c. to demonstrate compliance with a.ii.
- c. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.i.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Sam Keller, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2678; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondents: Rickey Repka, Owner, Repka's Grocery, 8481 Buller Road, Brookshire, Texas 77423
Barbara Repka, Owner, Repka's Grocery, 8481 Buller Road, Brookshire, Texas 77423
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES

Assigned PCW

25-Mar-2013
28-Mar-2013

Screening 28-Mar-2013

EPA Due 31-Mar-2013

RESPONDENT/FACILITY INFORMATION

Respondent Rickey Repka and Barbara Repka dba Repka's Grocery
Reg. Ent. Ref. No. RN101211670
Facility/Site Region 12-Houston **Major/Minor Source** Minor

CASE INFORMATION

Enf./Case ID No. 46556
Docket No. 2013-0637-PWS-E
Media Program(s) Public Water Supply
Multi-Media

No. of Violations 3
Order Type Findings
Government/Non-Profit No
Enf. Coordinator Sam Keller
EC's Team Enforcement Team 2

Admin. Penalty \$ Limit Minimum \$50 **Maximum** \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 35.0% Enhancement **Subtotals 2, 3, & 7** \$262

Notes Enhancement for seven NOV's with same/similar violations.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$477
Approx. Cost of Compliance \$545
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$1,012

OTHER FACTORS AS JUSTICE MAY REQUIRE

46.5%

Adjustment \$471

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to recover the avoided costs of compliance associated with Violation Nos. 1 through 3.

Final Penalty Amount \$1,483

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$1,483

DEFERRAL

0.0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$1,483

Screening Date 28-Mar-2013

Docket No. 2013-0637-PWS-E

PCW

Respondent Rickey Repka and Barbara Repka dba Repka's Grocery

Policy Revision 3 (September 2011)

Case ID No. 46556

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101211670

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 35%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for seven NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 28-Mar-2013

Docket No. 2013-0637-PWS-E

PCW

Respondent Rickey Repka and Barbara Repka dba Repka's Grocery

Policy Revision 3 (September 2011)

Case ID No. 46556

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101211670

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)

Violation Description

Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to collect repeat distribution coliform samples for the months of July and November 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to properly conduct repeat sampling may allow persons served by the Facility to be exposed to undetected contaminants that would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$300

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$228

Violation Final Penalty Total \$593

This violation Final Assessed Penalty (adjusted for limits) \$593

Economic Benefit Worksheet

Respondent Rickey Repka and Barbara Repka dba Repka's Grocery

Case ID No. 46556

Reg. Ent. Reference No. RN101211670

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	11-Feb-2013	31-Dec-2013	0.88	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement improvements to the Facility's process/procedures, guidance, training, and/or oversight to ensure that public notice is posted and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	19-Jul-2012	14-Nov-2012	1.24	\$12	\$200	\$212
Other (as needed)	\$10	20-Jul-2012	15-Feb-2013	1.49	\$1	\$10	\$11

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect all required repeat samples (\$25 per sample x 8 missed samples), calculated for the 24-hour period after the coliform-positive results. The other avoided cost includes the estimated amount to provide public notification (\$5 per notice x 2 notifications), calculated for the period public notices should have been provided.

Approx. Cost of Compliance

\$310

TOTAL

\$228

Screening Date 28-Mar-2013
Respondent Rickey Repka and Barbara Repka dba Repka's Grocery
Case ID No. 46556
Reg. Ent. Reference No. RN101211670
Media [Statute] Public Water Supply
Enf. Coordinator Sam Keller

Docket No. 2013-0637-PWS-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)

Violation Description

Failed to collect raw groundwater source Escherichia coli samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample and failed to provide public notification regarding the failure to collect raw groundwater source Escherichia coli samples for the month of July 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to conduct raw groundwater source monitoring could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

31 **Number of violation days**

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$297

This violation Final Assessed Penalty (adjusted for limits) \$297

Economic Benefit Worksheet

Respondent Rickey Repka and Barbara Repka dba Repka's Grocery

Case ID No. 46556

Reg. Ent. Reference No. RN101211670

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs of compliance for this violation are associated with the Economic Benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	19-Jul-2012	20-Jul-2012	0.00	\$0	\$25	\$25
Other (as needed)	\$5	20-Jul-2012	20-Oct-2012	1.17	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect one raw groundwater source sample (\$25 per sample), calculated for the 24-hour period after the coliform-positive result. The other avoided cost includes the estimated amount to provide public notification (\$5 per notice), calculated for the the period public notice should have been provided.

Approx. Cost of Compliance

\$30

TOTAL

\$30

Screening Date 28-Mar-2013

Docket No. 2013-0637-PWS-E

PCW

Respondent Rickey Repka and Barbara Repka dba Repka's Grocery

Policy Revision 3 (September 2011)

Case ID No. 46556

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101211670

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)

Violation Description

Failed to collect five routine distribution coliform samples the month following a coliform-positive sample result for the months of August and December 2012 and failed to provide public notification regarding the failure to collect five routine distribution coliform samples for the month of August 2012. Specifically, the Respondents collected only one of the five required samples each month.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to conduct increased coliform monitoring may allow persons served by the Facility to be exposed to undetected contaminants that would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

62 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$300

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$219

Violation Final Penalty Total \$593

This violation Final Assessed Penalty (adjusted for limits) \$593

Economic Benefit Worksheet

Respondent Rickey Repka and Barbara Repka dba Repka's Grocery

Case ID No. 46556

Reg. Ent. Reference No. RN101211670

Media Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	1-Aug-2012	31-Dec-2012	1.33	\$13	\$200	\$213
Other (as needed)	\$5	1-Sep-2012	30-Nov-2012	1.16	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to conduct increased coliform sampling, (\$25 per sample x 8 missed samples), calculated for the months the increased monitoring was required. The other avoided cost includes the estimated amount to provide public notification (\$5 per notice), calculated for the period public notice should have been provided.

Approx. Cost of Compliance

\$205

TOTAL

\$219



Compliance History Report

PUBLISHED Compliance History Report for CN602455941, RN101211670, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN602455941, Rickey Repka

Classification: NOT APPLICABLE

Rating: N/A

Regulated Entity: RN101211670, REPKA'S GROCERY

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 8481 BULLER ROAD, WALLER COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2370079

Compliance History Period: September 01, 2007 to August 31, 2012

Rating Year: 2012

Rating Date: 09/01/2012

Date Compliance History Report Prepared: March 26, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 26, 2008 to March 26, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Sam Keller

Phone: (512) 239-2678

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	10/11/2012	(1059741)	CN602455941
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)		

	Description:	30 TAC Chapter 290, SubChapter F 290.109(e) TCR Repeat MR Violation 07/2012 - Failure to collect and/or submit any repeats following a coliform found result within the required timeline.
2	Date:	11/06/2012 (1059741) CN602455941
	Self Report?	NO Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F) 30 TAC Chapter 290, SubChapter F 290.109(e)
	Description:	TCR Increase MR Violation 08/2012 - Failure to collect and/or submit within the required timeline all of the 5 distribution samples following a coliform found month.
3	Date:	12/06/2012 (1059741) CN602455941
	Self Report?	NO Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)
	Description:	JUL/2012 TCR Repeat MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2012.
	Self Report?	NO Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B) 30 TAC Chapter 290, SubChapter F 290.109(e)
	Description:	GWR Triggered Source MR Violation 07/2012 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source(s) within the required timeline.
4	Date:	12/14/2012 (1059741) CN602455941
	Self Report?	NO Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)
	Description:	JUL/2012 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the month of 07/2012.
5	Date:	01/22/2013 (1059741) CN602455941
	Self Report?	NO Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)
	Description:	AUG/2012 TCR Increase MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2012.
6	Date:	01/29/2013 (1059741) CN602455941
	Self Report?	NO Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii) 30 TAC Chapter 290, SubChapter F 290.109(e)
	Description:	TCR Repeat MR Violation 11/2012 - Failure to collect and/or submit any repeats following a coliform found result within the required timeline.
7	Date:	02/11/2013 (1059741) CN602455941
	Self Report?	NO Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F) 30 TAC Chapter 290, SubChapter F 290.109(e)
	Description:	TCR Increase MR Violation 12/2012 - Failure to collect and/or submit within the required timeline all of the 5 distribution samples following a coliform found month.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A



Compliance History Report

PUBLISHED Compliance History Report for CN600654727, RN101211670, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600654727, Barbara Repka

Classification: NOT APPLICABLE

Rating: N/A

Regulated Entity: RN101211670, REPKA'S GROCERY

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 8481 BULLER ROAD, WALLER COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2370079

Compliance History Period: September 01, 2007 to August 31, 2012

Rating Year: 2012

Rating Date: 09/01/2012

Date Compliance History Report Prepared: March 27, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 26, 2008 to March 26, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Sam Keller

Phone: (512) 239-2678

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	10/11/2012	(1059741)	CN600654727
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)		

	Description:	30 TAC Chapter 290, SubChapter F 290.109(e) TCR Repeat MR Violation 07/2012 - Failure to collect and/or submit any repeats following a coliform found result within the required timeline.	
2	Date:	11/06/2012 (1059741)	CN600654727
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F) 30 TAC Chapter 290, SubChapter F 290.109(e)	
	Description:	TCR Increase MR Violation 08/2012 - Failure to collect and/or submit within the required timeline all of the 5 distribution samples following a coliform found month.	
3	Date:	12/06/2012 (1059741)	CN600654727
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	JUL/2012 TCR Repeat MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2012.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B) 30 TAC Chapter 290, SubChapter F 290.109(e)	
	Description:	GWR Triggered Source MR Violation 07/2012 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source(s) within the required timeline.	
4	Date:	12/14/2012 (1059741)	CN600654727
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	JUL/2012 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the month of 07/2012.	
5	Date:	01/22/2013 (1059741)	CN600654727
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	AUG/2012 TCR Increase MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2012.	
6	Date:	01/29/2013 (1059741)	CN600654727
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii) 30 TAC Chapter 290, SubChapter F 290.109(e)	
	Description:	TCR Repeat MR Violation 11/2012 - Failure to collect and/or submit any repeats following a coliform found result within the required timeline.	
7	Date:	02/11/2013 (1059741)	CN600654727
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F) 30 TAC Chapter 290, SubChapter F 290.109(e)	
	Description:	TCR Increase MR Violation 12/2012 - Failure to collect and/or submit within the required timeline all of the 5 distribution samples following a coliform found month.	

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RICKEY REPKA AND
BARBARA REPKA
DBA REPKA'S GROCERY
RN101211670**

**§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0637-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Rickey Repka and Barbara Repka dba Repka's Grocery (the "Respondents") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondents own and operate a public water supply at 8481 Buller Road in Waller County, Texas (the "Facility") that has two service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on February 11, 2013, TCEQ staff documented that the Respondents did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and did not provide public notification regarding the failure to collect repeat distribution coliform samples for the months of July and November 2012.
3. During a record review conducted on February 11, 2013, TCEQ staff documented that the Respondents did not collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive sample and did not provide public notification regarding the failure to collect raw groundwater source *Escherichia coli* samples for the month of July 2012.
4. During a record review conducted on February 11, 2013, TCEQ staff documented that the Respondents collected only one of the five routine distribution coliform for the months of August and December 2012 and did not provide public notification regarding the failure to collect five routine distribution coliform samples for the month of August 2012.
5. The Respondents received notice of the violations on March 25, 2013.

II. CONCLUSIONS OF LAW

1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondents failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to collect repeat distribution coliform samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).
3. As evidenced by Findings of Fact No. 3, the Respondents failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample and failed to provide public notification regarding the failure to collect raw groundwater source *Escherichia coli* samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A).
4. As evidenced by Findings of Fact No. 4, the Respondents failed to collect five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notification regarding the failure to collect five routine

distribution coliform samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondents for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of One Thousand Four Hundred Eighty-Three Dollars (\$1,483) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondents have paid the One Thousand Four Hundred Eighty-Three Dollar (\$1,483) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondents are assessed an administrative penalty in the amount of One Thousand Four Hundred Eighty-Three Dollars (\$1,483) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Rickey Repka and Barbara Repka dba Repka's Grocery, Docket No. 2013-0637-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.

3. The Respondents shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin complying with applicable coliform monitoring requirements by collecting repeat and increase coliform distribution samples, collecting raw groundwater source *Escherichia coli* samples for each groundwater source in use at the time the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.c. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.ii; and
- c. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.i. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing",

and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam D. Sauer
For the Executive Director

9/18/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Rickey Repka and Barbara Repka dba Repka's Grocery. I am authorized to agree to the attached Agreed Order on behalf of Rickey Repka and Barbara Repka dba Repka's Grocery, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Rickey Repka and Barbara Repka dba Repka's Grocery waive certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

R. W. Repka

Signature

R. W. Repka

Name (Printed or typed)

Authorized Representative of
Rickey Repka dba Repka's Grocery

Barbara Repka

Signature

Barbara Repka

Name (Printed or typed)

Authorized Representative of
Barbara Repka dba Repka's Grocery

owner
Date

6/23/13

Title

6/24/13
Date

owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.